

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SATIVA BUTLER and MALACHI
BUTLER, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JENNIFER LYNN BUTLER,

Respondent-Appellant.

UNPUBLISHED
February 22, 2005

No. 257562
Kalamazoo Circuit Court
Family Division
LC No. 04-000020

Before: Fort Hood, P.J. and Griffin and Donofrio, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii) and (j). Because there was clear and convincing evidence that she failed to protect her children from physical injury and there was a reasonable likelihood that the children would suffer further injury if returned to her care, we affirm.

The trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The record contained clear and convincing evidence that respondent repeatedly placed her children in her husband's care despite her actual knowledge of his violent behavior. The evidence demonstrated clearly respondent's inability to protect her children in the past. Respondent's trial testimony that part of her did not believe that her husband injured the children and that she "didn't know" if she could trust her husband was remarkable given the fact that she witnessed his earlier perpetration of child abuse and he had separate and serial convictions for child abuse. To not "know" demonstrates a clear disregard for the welfare of the children. And the evidence that Malachi would be harmed emotionally if returned to respondent's care demonstrated that there was a reasonable likelihood that the children would be harmed if returned to respondent.

Once a statutory ground for termination is established, a parent's liberty interest in the care, custody, and companionship of his or her child yields to the state's interest in the protection of the child. *In re Trejo Minors*, 462 Mich 341, 355-356; 612 NW2d 407 (2000). Thus, we find

no merit in respondent's argument that the trial court's decision violated her liberty interest in the care, custody, and companionship of her children.

The trial court did not err in terminating respondent's parental rights to the children.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Richard Allen Griffin

/s/ Pat M. Donofrio